

The Honorable Ricardo S. Martinez

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

TREVOR KEVIN BAYLIS,

Plaintiff, (*pro se*).

v.

VALVE CORPORATION,

Defendant.

Case No. 2:23-cv-01653-RSM

**PLAINTIFF'S
SURREPLY REQUESTING THAT
THE COURT STRIKE MATERIAL
IN DEFENDANT'S REPLY TO
PLAINTIFF'S RESPONSE TO
MOTION.**

Date filed 20th April 2024

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1. INTRODUCTION

In Defendant's ("Valve") "Reply In Support Of Motion To Refer Copyright Registration Questions To The Register Of Copyrights And For Stay Of Proceedings" ("Reply"), #Dkt. 52 at Page 5, Valve raise a new irrelevant issue which was not raised in their original related MOTION to Refer Copyright Registration Questions to the Register of Copyrights and for Stay of Proceedings, ("Motion") #Dkt. 43.

Under LCR 7 (g) Requests to Strike Material Contained in Motion or Briefs; Surreply subject to the following: (1) That party must file a notice of intent to file a surreply as soon after receiving the reply brief as practicable. (2) The surreply must be filed within five days of the filing of the reply brief, and shall be strictly limited to addressing the request to strike. Plaintiff ("Baylis") hereby gives notice of intent to file a surreply and concurrently files such a surreply under Under LCR 7 (g).

2. VALVE INTRODUCE IRRELEVANT ISSUES RELATED TO UNITED STATES VISUAL ARTISTS RIGHTS ACT OF 1990

Valve raise issues in relation to Moral Rights in US copyright law under Visual Artists Rights Act of 1990, 17 U.S.C. § 106A ("VARA") see Reply #Dkt. 52 page 5, that are entirely inappropriate and a "red herring" argument because the real issue of Baylis' "right to claim authorship of his work" and subsequent "claim to authorship of his work" is in fact related to Berne Convention rules Article 6bis because his work was published under "country of origin rules" under Berne Convention Article 5 (4) (a) and nothing to do with VARA at all. See, Itar-Tass Russian News v. Russian Kurier, "Holding that "the law of the **country of origin** determines ownership of a work ...**first published** in Russia" [Emphasis added]. Iron Sky was **first published** in Germany, Baylis' SAC #Dkt 25 pages 8-9.

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“In terms of the United States Copyrights Act and its reference to the Berne Convention, Russia is the “country of origin” of these works, see 17 U.S.C. § 101 (definition of “country of origin” of Berne Convention work)” *Itar-Tass Russian News v. Russian Kurier*, 153 F.3d 82, 90 (2d Cir. 1998)

“Conflicts rule for infringement issues.

On infringement issues, the governing conflicts principle is usually *lex loci delicti*, the doctrine generally applicable to torts. See *Lauritzen v. Larsen*, 345 U.S. 571, 583 (1953). We have implicitly adopted that approach to infringement claims, applying United States copyright law to a work that was unprotected in its country of origin. See *Hasbro Bradley, Inc. v. Sparkle Toys, Inc.*, 780 F.2d 189, 192-93 (2d Cir. 1985)”

Therefore, Baylis can absolutely claim authorship of his work when registering it at the US Copyright Office under the rules and guides of the US Copyright Office which again is nothing to do with VARA.

See *C O M P E N D I U M : Chapter 300 Copyrightable Authorship: What Can Be Registered*

Such rules and guides are supplied by the copyright office here,

<https://www.copyright.gov/comp3/chap300/ch300-copyrightable-authorship.pdf>

Wherein states,

310.11 Other Forms of Legal Protection

When examining a work of authorship, the U.S. Copyright Office will focus solely on the requirements of U.S. copyright law. **The fact that a work may or may not be protected by a design patent, trademark registration, or other form of legal protection is irrelevant to this determination.** See *Star Athletica*, 137 S. Ct. at 1015; 37 C.F.R. § 202.10(a), (b); H.R. REP. NO. 94-1476, at 54 (1976), reprinted in 1976 U.S.C.C.A.N. 5659, 5667.

Therefore, as stated by the US Copyright Office, **The fact that a work may or may not be protected by a design patent, trademark registration, or other form of legal protection**

(Such as VARA) is irrelevant to this determination. Additionally, if property rights such as intellectual property rights have been **illegally expropriated** by some other nations laws and may not be protected by that nations laws (which on the face of it is Valve's "unconstitutional" argument (Fifth Amendment "depriving of property")) then that is irrelevant too.

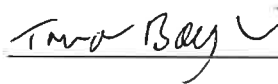
3. CONCLUSION

This court should strike Valve's argument in relation to Moral Rights in US copyright law under Visual Artists Rights Act of 1990, 17 U.S.C. § 106A ("VARA") see Reply #Dkt. 52 page 5, because they are entirely inappropriate and a "red herring" argument because the real issue of Baylis' "right to claim authorship of his work" and subsequent "claim to authorship of his work" is in fact related to Berne Convention rules Article 6bis because his work was published under "country of origin rules" under **Berne Convention Article 5(4)(a)** and nothing to do with VARA at all! Iron Sky was **first published** in Germany, Baylis' SAC #Dkt 25 pages 8-9

I certify that this memorandum contains
772 words, in compliance with the Local
Civil Rules.

20th April 2024

Trevor Kevin Baylis



Jankanraitti

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Please note: Plaintiff is dyslexic. Thus written documents such as this may have minor accidental spelling and or grammatical errors. Such things should not be seen as cause to prejudice the author of this document.

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CERTIFICATE OF SERVICE FORM

FOR ELECTRONIC FILINGS

I hereby certify that on 20th April 2024 I electronically filed the foregoing document
with the United States District Court

Western District of Washington at Seattle by using the
CM/ECF system. I certify that the following parties or their counsel of
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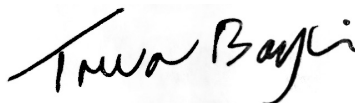
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Dated: 20th April 2024



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